

## Mr. Charles Pinckney's speech, in answer to Mr. Jay, secretary for foreign affairs, on the question of a treaty with Spain

Mr. **CHARLES PINCKNEY's SPEECH**, in Answer to Mr. **JAY**, Secretary for Foreign Affairs, on the Question of a Treaty with Spain, delivered in Congress, August 16, 1786.

**MR. PRESIDENT,**

The Secretary for Foreign Affairs has reported, that, in consequence of the commission and instructions he had received from Congress for the purpose of negotiating with Mr. Gardoqui, he has had several conferences with him upon this subject.

That he had received an offer from Mr. Gardoqui to enter into a commercial treaty upon certain principles, but that he insisted as a part of the treaty, that Spain and the United States should fix the boundaries of their respective territories; and that the latter should relinquish all claim to the right of navigating the river Mississippi.

The Secretary adds, as his opinion, that a treaty may be formed with Spain, upon principles which he then stated, upon the United States forbearing to assert their right to navigate the river for twenty-five or thirty years and used some arguments to prove the policy of our acceding to this arrangement with her.

In investigating this subject, it is proper to follow the Secretary, and examine

1st. The reasons he has stated, and which ought, in his opinion, to induce us, at this time, to wish the formation of a commercial treaty with Spain.

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2dly. The offers which Spain has made, and the terms upon which a treaty may be concluded with her; the benefits to be derived from it, and the manner in which they will operate upon the different parts of the union.

3dly. The price that is to be paid for the treaty, and the consequences that will probably attend the United States stipulating to suspend the assertion of the right for a given term. And

4thly. The policy of Congress's concluding a treaty at all at this time.

I will agree that an equal commercial treaty would be of more advantage to this country, with Spain, than with any other in Europe, except Portugal; but I am not convinced that the relative situation of Spain and the United States is such as ought to render us, at this time, particularly anxious to conclude a treaty upon the principles proposed.

It is thought, if a difference should exist between us, that France will probably be the friend of Spain; as her close connection by compact, and the benefits she derives from her alliance with Spain, are greater than any she can expect from America.-If I understand the politics of France, or if we are to depend upon our communications from thence, we are to suppose that her present system, is a system of perfect peace. She is laboring to repair the expences of the late war, to arrange her finances, and by every possible exertion to augment her marine. She is generally esteemed, what politicians stile, "the ruling power," at present in Europe; and it is more to her interest, and more gratifying to her ambition, to maintain this situation, than by improperly interfering in matters comparatively unimportant, to risque a premature contest with the rival power. I call that a rival power, which not being equal to her upon the whole, still comes nearer this equality than any other-and this is England. France may mediate, but as we are to presume she will always be governed by her interest, she will never risque a contest if she can avoid it, that must involve her with Great-Britain and this country, merely to support Spain in the impolitic demand of [sautting?] the Mississippi.

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Though the animosities of Great-Britain are still warm, yet there is sufficient wisdom in her councils to make them yield to her interest. Though she loves us not, she hates France and Spain, and would avail herself of any opportunity, even upon less than equal terms, to strike a blow. With them she never can be in any other than a rival situation; with us, when the present differences shall have terminated, it will ever be her interest to be closely connected. Our language, governments, religion and policy, point to this, as an alliance that will hereafter be formed, as most likely to be permanent and productive of good consequences. In a war with France and Spain, the contiguity of the United States, and the convenience of their ports and supplies, would render the aid of this country peculiarly important in any enterprise against their islands.

We also know, if any respect is to be paid to the intelligence and communications of Mr. Adams, your Minister at the Court of London, that the cabinet of Great-Britain are at this time turning a serious eye to South America. The divesting, he says, Spain of that country, and opening to it a free trade, is considered by them as of the first importance, and if any event should take place in which even a distant hope of accomplishing this object should offer, there can be no doubt of her availing herself of it.

So far therefore from fearing the additional weight of Great-Britain, we are to presume if she suffers her interest and her wishes to prevail, that she will importantly interfere in our favour.

The connections of Spain and her influence in Portugal, even if they could ever be of much service, which is very doubtful, can be of no consequence at present, as our latest advices from thence warrant a belief that a treaty between Portugal and the United States has long since been concluded.

It does not appear that any beneficial effects are to be expected from her influence in our favour with the States of Barbary: there is but one mode of obtaining a pacification with them; the price of peace must be paid. You are informed by Mr. Jefferson, that in a late

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conversation he had with the Count Vergennes upon the subject of a treaty with the Porte, and the aid of his influence to procure a peace with them, the Count informed him, that even in that case, and notwithstanding they owe the Porte a distant tribute, his interference would not procure you a peace a moment sooner, nor a shilling cheaper; in short, that a pacification would be as difficult, and their terms as extravagant as at present: If therefore the influence of Constantinople would be unsuccessful, how is it to be expected that the friendship of Spain would be useful.

Of no more weight is another opinion, which supposes the influence of Spain will promote our interests with the Italian States—true it is that the king of Naples is the son of the king of Spain, but until a peace is made with the States of Barbary, the friendship of the king of Spain will be but of little protection to your commerce in the Mediterranean.—Effect this, and the Italian States will all be ready to receive you upon the same liberal terms without treaty, which one has already offered.

Upon investigating the situation of Spain, it will be found she has strong reasons to be particularly anxious to treat with you at this time.

Independent of the knowledge she must have of the intentions of Great-Britain, the views with a jealous eye the emancipation of these States, and dreads their neighbourhood to her rich and extensive, tho' feeble colonies of South-America. She is desirous to prevent an intimacy between them, well knowing the danger of such an intercourse.—Hence we find she holds the deserts of Florida as a barrier, and wishes to deprive our citizens of the use of the Mississippi, hoping by these means to postpone an event which she dreads, and fears is at no considerable distance. Being acquainted with your situation, the deranged state of your finances, and the inefficacy of your government, she thinks that this is the time to push her demands, and supposes your distress will force you into a compliance:—but I still trust our inconveniences when compared to her's, are but temporary. A little firmness and perseverance on the part of Congress, and of recollection on the part of the States, may yet subdue all our difficulties; whereas the Spanish Monarchy carries in its

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bosom the seeds of its dissolution. Our situation, though unpleasant, is not yet sufficiently desperate to force us into measures derogatory to our national honor. Spain has more to risk, and more to dread from a rupture than we can fear, and though it is undoubtedly her interest to treat at present, it can be only ours on very advantageous terms.

As to the second point, Spain consents to treat with us upon what she terms principles of perfect reciprocity; importation to be freely made in each other's vessels; the duties to be paid by each in the ports of the other, the same as those paid by the natives; masts and spars to be purchased of the United States for the use of the navy of Spain, and paid in specie, provided they are as good and as cheap as those procured from the Baltic; permission to go to the Canaries, and Mr. Gardoqui has no personal objection that we should have liberty to go the Philippines, his instructions however do not reach this; her ports in the West-Indies and in South America to be shut, and the article of tobacco to be prohibited in her European ports.

In return we are to admit her subjects freely into all the ports we have, without any exception of articles, upon the footing of natives, and to stipulate the forbearance of our right to navigate the Mississippi for a given term.

In examining this point it must be observed, though the treaty proposes a perfect reciprocity, this reciprocity will be the more or less advantageous, as the commerce of the respective powers is the more or less free in their own ports.

The United States are a free, and Spain is an absolute, government; it is the policy of the former to promote and encourage their commerce, hence their duties are but trifling and easily paid; the impositions and fetters of the latter have almost ruined it, and though our merchants are to be on the footing of natives, yet it is beyond a doubt they will pay four, and in some instances six times as much as their merchants will in our ports; so that the reciprocity here mentioned does not, or cannot exist—the Spanish productions will, in most instances, be imported here at two, and two and a half, and if the impost should

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operate, at five per cent. The American into their ports in the one cafe at four times, and in the other at double the sum.

At present American produce is generally sold in the Spanish ports on board the vessel; the purchaser pays the custom and duties, making the necessary deductions, so that though they are large and reduce the value of the commodity, they never appear on the account sales rendered by the consignee.

The duty on eatables, by which I suppose is meant all kind of provision, of grain, or otherwise, is called million, and calculated generally at ten per cent. at Cadiz, but differs materially in the several towns and provinces. The duty on merchandize imported, may be generally estimated at 25 per cent.

Ricard, in his *Traite du Commerce*, takes notice of an extra duty paid on exportation on foreign bottoms from Cadiz, of 150 reals vellon per pipe on wine, equal to 34s. but the merchants there in making out their invoices charge the wine and brandy on board, at certain prices, including all duties and charges, which leave us unacquainted with the exact sum.

The duties on vessels going to South America are extremely high, not less than 25 per cent. ever, and in many cases much higher.

The articles with which Spain is now supplies from this county, she receives upon terms equally beneficial with those proposed by the treaty, and so advantageous is this trade to her, that there cannot be the most distant danger of her ever shutting her ports against us; she does not produce them, and they are necessary and essential to her, it is therefore her policy to open her ports to all that do; this creates a competition, and she is always sure of being well and cheaply supplied. The object of the treaty is therefore unimportant, because it is only to secure that partial intercourse with Spain which now exists, and which it will always be her interest to promote.

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The project goes farther and proposes to purchase your masts and spars, provided they are as good and as cheap as she can procure them from the Baltic. This is a stipulation of no consequence. If you have masts and spars of equal size and fitness with those imported from the Baltic, you will always find purchasers.— Spain is a maritime power, she has no territories producing timber of this kind, but masts and spars are and must be always wanted for her navy. Will it not therefore be her interest to encourage as many to bring them to her ports as she can? Most clearly it will.

I am told by merchants of repute, and connected in the Spanish trade, that the common timber of this country cannot but rarely, if ever, be exported as good and as cheap as that from the Baltic.—In proof of this, they have appealed to all the shipments that have been made since the war; scarcely one of which has done more than pay the mere freight, sinking the original cost of the timber.

Spain generally produces as much wheat as her inhabitants consume, except in those years when their crops are lost by drought, which is once in three or four. The wheat to supply this, and their islands, and American colonies, they generally procure from Sicily and Poland, and purchase the American wheat when it is as good and as cheap; but they by no means depend upon it. Their European markets however, are always open to it, and to every other kind of provision; nor while they consult their interest will they prohibit it. So that it appears, as far as your articles are useful and necessary, and it is their interest, so far will they open their ports to you; but in the lucrative and truly important trade of their islands and other dominions, or wherever they are afraid of a rivalry, there you are to be prevented.

It is said however, that Mr. Gardoqui is not personally averse to our going to the Philippines, and that from thence in all probability some intercourse will be established with Acapulco. If we are to believe Mr. Gardoqui, when he says it is an invariable maxim of Spanish politics, to exclude all mankind from trading with their colonies and islands, it appears to me that we are rather to consider this as a ministerial finesse, than amounting

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to any thing like a certainty that permission will be obtained;—but suppose it is:—One rich ship fails every year from Acapulco to one of the Philippine islands, and returns laden with the commodities of the East-Indies. It is not to be supposed it will be very easy to elude the Spaniards, whose duty it will be to prevent your interfering with the South-American trade. But grant for a moment they connive at it, what great advantages are to be expected from your citizens in this remote and expensive voyage, being suffered to participate in the cargo of a single ship? An individual or two may make their fortunes, but surely no solid advantages are to be derived to the union from this distant and precarious commerce. In short, Sir, as I have observed, this appears to me no more than a ministerial finesse, to which his instructions do not, nor ever will reach.

But in order to bring the objects of the proposed treaty more clearly before the view of the house, permit me to examine them, as they may affect the different states in their operation.

The New-England states (in which can be scarcely included New-Hampshire and Connecticut, their European commerce being inconsiderable, and Rhode-Island not extensive) enjoy at present a beneficial trade with Spain, in the export of their fish, lumber, and other articles, for which they receive valuable returns. Their peltry trade is of no consequence, nor except in the articles mentioned have they any considerable export that will suit the Spanish European markets. The Spaniards have no fisheries of their own;—they consume a great quantity of fish, and are always in want of timber; they will therefore find it their policy to keep their ports open to all the nations that will bring them. Spain does not offer to give us exclusive privileges or preferences, but leaves herself at liberty to form treaties with whom she pleases. The French, in virtue of the family compact, are entitled to the privileges of the most favored nation; and if we examine the treaties of commerce that have formerly existed between Great-Britain and Spain, particularly that of 1667, which is the ground work of all their future treaties, and those of 1713 and 1715, we shall find these nations have been in the habits of a commercial intercourse for a great number of years.—The policy of Europe at present, seems to be peace and commerce. The English



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and French are pushing their fisheries with astonishing exertions, and endeavouring to depress ours—while therefore Spain in her treaty proposes no advantages that we do not now enjoy, and which it can never be her interest to curtail, and while she leaves herself open to trade with other nations who may attempt to rival them; I cannot feel any particular benefit that will result even to the New-England States, under the present project.

New York and Pennsylvania have the power of exporting wheat and staves, and some other articles; their wheat is valuable in proportion to the scarcity, and failure of crops, and depends upon the contingencies I have already stated—under the treaty nothing more is proposed to them. New-Jersey not being an importing State, cannot be materially interested. Maryland and Virginia may export as they do at present, some wheat and lumber; their great staple tobacco is expressly prohibited, and to remain under its present regulations, so that while the latter must be more injured than any State in the union, by the cession, she will be the least benefitted under the treaty. The tobacco of North and South-Carolina. and Georgia, is in the same situation, nor will the sale of their other productions be promoted. Indigo, one of their staple commodities, is the product of the Spanish American Islands and Colonies in much greater quantities than they can consume, and of a superior quality to that made in the Southern States, so that there does not remain a probability of this ever becoming an article of commerce.

Rice is always in such demand in Europe, that it wants nor the aid of a treaty, nor if it did, would those States which produce it, with an advantage at the expence of the rights and possessions of any part of the Confederacy.

I trust that upon a candid and disinterested view of the proposed arrangement—the partial, not to say ungenerous, manner in which it is offered, and the few advantages to be derived from its operation, which we do not at present enjoy, that Congress will be induced to suppose it is not an offer of that liberal and extensive kind, which promises a lasting or mutually beneficial intercourse, nor does it hold out such privileges as we might have expected from a power who wishes to tempt us to even the temporary surrender of an

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important national right. In my judgment she proposes nothing more than she will always be willing to grant you without a treaty, and nothing which can be termed an equivalent for the forbearance she demands.

The true mode to determine this, is to examine the nature and consequences of the demand she makes, on our compliance with which alone a treaty may be formed with her.

It is to forbear the assertion of the right of the United States to navigate the river Mississippi, for the terms of 25 or 30 years. It is said the treaty will not be concluded without this stipulation—that the navigation is unimportant, and that a forbearance will be no sacrifice, as Spain excludes us by force, and will continue to do so—that it would be disgraceful to continue the claim without asserting it—that war is inexpedient, and that the best way would be to enter into a treaty with them, and consent to suspend the claim for a certain time.

The right of the United States to navigate the Mississippi has been so often asserted, and so fully stated by Congress, that it is unnecessary to say any thing upon this subject, particularly as the Secretary in his Report appears to be in sentiment with Congress. But if the treaty proposed was of the most advantageous nature in other respects, while it insisted upon the forbearance, I should think the impolicy of consenting to it, must be obvious for the following reasons:

Because the sale and disposal of the lands ceded in the western territory, has ever been considered by Congress as a sufficient fund, under proper management, for the discharge of the domestic debt. Large sums of efficient money have already been expended in quieting the Indians—purchasing their rights of soil, and in fending out persons to survey it. The offers which are to be made the purchasers, and already established by your resolutions, are the protection and support of the Union—the establishment of republican governments, and the equal enjoyment of all the privileges of citizens of the United States. To those in the least acquainted with that country, it is known that the value of

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their lands must altogether depend upon the right to navigate the Mississippi. This is the great out-let with which, and with the rivers running into it, nature washes their shores,—points to them the mode of exporting their productions, and of establishing a commercial intercourse with the rest of the world. Inform them you have consented to relinquish it even for a time, you check, perhaps destroy, the spirit of emigration, and prevent the accomplishment of the object proposed by the sale. But, it is said, the Spaniards already oppose us in the navigation, and that this will as effectually prevent emigration, as our consenting to suspend it. To this it may be shortly replied, that while the purchasers know that the United States claim and insist upon the right, and are negotiating for it, that if the Spaniards refuse to admit us to a participation, the occlusion will be founded in injury, must be supported by force, and will be resisted whenever circumstances shall authorise; a reliance on the support and protection of their parent state, will operate as a spur to emigration.

To me it appears most extraordinary that a doctrine should be attempted to prove, that because we have not at present a government sufficiently energetic to assert a national right, it would be more honorable to relinquish it.

The British government, in violation of the late treaty, hold by force and garrison posts within the territory of the United States. These posts give them the entire command of the valuable fur trade. If they were in our possession, as they ought to be, this important commerce would pursue its usual route, and become an article of considerable export to these states: but we are unable to recover them by force at present, war being inexpedient, and are obliged to submit to the injury and disgrace of their being forcibly withheld. We are now attempting to negotiate with Britain:—suppose she was to offer certain commercial privileges, advantageous to the whole, but operating more particularly in favor of those exports which suit her market, and to which she more anxiously applies her attention than to any other part of your commerce; for to Britain, tobacco and rice are at least as important, as fish and timber to Spain. Suppose I say she was to offer to form a treaty, granting these privileges in lieu of your stipulating that she should hold these

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posts, and enjoy the fur trade for a given number of years, I ask, whether Congress would conceive themselves warranted in assenting to it, or think the honor of the nation was not wounded by the attempt; Would gentlemen representing the states, particularly interested, suppose themselves at liberty to consent to it without consulting their constituents; I should apprehend not—and yet the posts are held in defiance of the authority and remonstrances of this country. The claim to the Mississippi has been as strongly insisted upon as the claim to the posts, and the cases appear to me to be similar, that I should think the same policy that would dictate the yielding the one, might with great propriety consent to the surrender of the other.

Another object more important than the sale and disposal of the Western territory, presents itself in objection to the suspension of the right.

Nature has so placed this country, that they must either be the future friends or enemies of the Atlantic states, and this will altogether depend upon the policy they shall observe towards them.

If they assist them in rearing their infant governments to maturity, and by extending the gentle influence of their laws gradually, cement their union with us upon equal principles, it is fair to suppose they may be an acquisition, rather than a disadvantage.

In their first settlement, exports cannot be much attended to, but as these states increase in the same proportion the United States did, and we are to presume they will exceed them, in the course of a few years, they will turn their views to the best mode of exporting and disposing of their productions. The large navigable rivers which all terminate in the Mississippi, point to them, as has been mentioned, this mode of export;—should the right remain unceded by Congress, the consideration of the future force of the inhabitants, and a number of eventual circumstances in our favor, which it is impossible at present to foresee, but which are probable, may induce, perhaps compel, Spain to yield us a share in the navigation.

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But should it be surrendered, you at once deprive the citizens of the Atlantic states from navigating it, or from having any intercourse with the settlements on its banks, and within your territory. You immediately destroy all connection between them and the inhabitants of the western country: for, after you have rendered them thus dependant on Spain, by using the first opportunity in your power to sacrifice their interests to those of the Atlantic States, can they be blamed for immediately throwing themselves into her arms for that protection and support which you have denied them—for the enjoyment of that right which you have placed it out of your power to grant. Is it not to be clearly seen by those who will see, that the policy of Spain, in thus inducing us to consent to a surrender of the navigation for a time, is, that by having a clear and unincumbered right, she may use it for the purpose of separating the interests of the inhabitants of the western country entirely from us, and making it subservient to her own purposes?— Will it not produce this? It will.—Will it not give her influence the entire command of the numerous and extensive Indian tribes within this country? It will certainly have this effect. When once this right is ceased, no longer can the United States be viewed as the friend or parent of the new States, nor ought they to be considered in any other light, than in that of their oppressors.

There is one consideration, and of some consequence, which ought to be recollected; that is, the impropriety of the United States ever acting under the influence of that kind of policy which is calculated to acquire benefits for one part of the confederacy at the expence of the other.

It is confessed our government is so feeble and unoperative, that unless a new portion of strength is infused, it must in all probability soon dissolve. Congress have it in contemplation to apply to the States on this subject. The concurrence of the whole will be necessary to effect it. Is it to be supposed, that if it is discovered a treaty is formed upon principles calculated to promote the interests of one part of the union at the expence of the other, that the part conceiving itself injured will ever consent to invent additional powers? Will they not urge, and with great reason, the impropriety of vesting that body

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with farther powers, which has so recently abused those they already possess; I have no doubt they will.

If therefore the entering into this treaty, which really does not in my opinion, hold out any important benefits, and if any, only to a part of the union, should interfere and prevent the States from assenting to invest Congress with proper powers, throwing justice and an equal attention to all the members of the confederacy out of view, ought not policy to induce us to make the lesser yield to the more important considerations;—If we are prudent it ought.

It may be said it is extremely oppressive, that the Northern and Eastern States should be deprived of a treaty which they conceive an advantageous one, merely to gratify the Southern in adhering to a claim to navigation, unimportant if in our possession, which we have not power to assert, and must therefore submit to be deprived of—but it should be remembered that the cession is the price of the treaty;—if you had not this right to grant, why should Spain treat with you; Will she derive any other benefits from the treaty; No. All she can expect, except the exclusive navigation, she now enjoys, unfettered by stipulations—it would therefore be extremely unwise and impolitic in her unnecessarily to restrict herself. I have stated the reasons which render her particularly anxious to treat with you, and those who are to pay the price, have at least a right to an opinion upon the subject: Besides, the delegates of the different States stand here upon different grounds. The delegates of some of the States, whole territories, or whose claims to territory extend to the Mississippi, or to the waters leading into it, and who consider these states as deriving a claim under the general title of the United States, to navigate the river, view this as an important national right, secured by treaty, upon which they doubt their power to decide without a reference to their constituents; for if, in time of war, under the exclusive rights of Congress, and justifiable only by the law of necessity, their right to divest their constituents of a national claim would be doubtful; how much more so is it in time of profound peace, and when this necessity cannot justify it;

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Unless Spain would consent to treat with us upon terms which did not respect the Mississippi, and which afforded us many more advantages than those proposed, I should very much doubt the policy of treating with her at all at this time.

It does not appear to me honorable of politic, that the United States should at present form any treaties of commerce, except upon such principles as would insure to us very considerable benefits, and such as would execute themselves.

It is not honorable, because, though Congress have nominally a right to enter into treaties, they do not possess the power of taking such measures as will ensure an attention to them. The right retained to the States under the confederation; will create a dependence of Congress upon their conduct: this will be as different in the several States as their views and policy, they will each interfere with the other in their regulations, and be incapable of carrying the stipulations into effect. Sensible of this defect, Congress have already applied to the States for additional powers. I would rather wait the issue of this application, which may place us more upon an equality with Spain, than treat under our present disadvantages. I have always been of opinion, that the true policy of the United States consisted in the endeavouring to obtain from their constituents powers sufficient to enable them to establish such regulations as were suited to our situation, and would render our commerce more lucrative to our own citizens than to any others. All our policy should consist in the establishment of these regulations—in the determination never to derogate from them in favour of foreigners; and, except in very particular cases, in not attempting to form commercial treaties, until we were in a situation to demand and expect privileges without purchasing them even with equivalents. This is the situation of Spain, as it respects you; and, therefore, it is wise in her to push her negotiations, as she expects an important cession, without purchasing it with an equivalent; but I trust we shall have sufficient prudence not to precipitate ourselves into a measure which we may hereafter repent, without first very maturely considering it.

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Upon the whole, as the present treaty proposes no real advantage that we do not at present enjoy, and it will always be the interest and policy of Spain to allow; as our situation by no means presses us to the formation of new connections; and as the suspension demanded, may involve us in uneasinesses with each other at a time when harmony is so essential to our true interests—as it may be the means of souring the states, and indispose them to grant us those additional powers of government, without which we cannot exist as a nation, and without which all the treaties you may form must be ineffectual; let me hope that upon this occasion the general welfare of the United States will be suffered to prevail, and that the house will on no account consent to alter Mr. Jay's instructions, or permit him to treat upon any other terms than those he has already proposed.